

## **AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is entered into the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between the CITY OF BENBROOK, TEXAS, hereinafter referred to as "CITY and Freese and Nichols, Inc. hereinafter referred to as "CONSULTANT".

WHEREAS, CITY desires CONSULTANT to perform certain work and Services set forth in Scope of Services, marked Exhibit "A", and attached hereto and incorporated herein.

WHEREAS, the CONSULTANT has expressed a willingness to perform said work and Services, hereinafter referred to only as "Services", specified in said Scope of Services, and enumerated under Article II of this Agreement.

NOW, THEREFORE, all parties agree as follows:

### **ARTICLE I** **GENERAL**

CONSULTANT shall furnish and pay for all labor, tools, materials, equipment, supplies, transportation and management necessary to perform all Services set forth in Article II hereof for the CITY in accordance with the terms, conditions and provisions of the Scope of Services, marked Exhibit "A", and attached hereto and incorporated herein for all purposes. CITY may, at any time, stop any Services by the CONSULTANT upon giving CONSULTANT written notice. CONSULTANT shall be bound to CITY by the terms, conditions and responsibilities toward the CITY for CONSULTANT'S Services set forth in this Agreement.

### **ARTICLE II** **SERVICES**

A. The following Services, when authorized in writing by a Notice to Proceed, shall be performed by the CONSULTANT in accordance with CITY requirements:

PERFORMANCE OF THE “GENERAL ENGINEERING CONSULTING SERVICES” DESCRIBED IN THE SCOPE OF SERVICES MARKED EXHIBIT “A”.

B. CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all Services furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in Services.

C. Neither CITY review, approval or acceptance of, no payment for any of the Services required under this Agreement, shall be construed to operate as a waiver if any rights under this Agreement or if any cause of action arising out of the performance of this Agreement, and CONSULTANT shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONSULTANT’S negligent performance of any of the Services furnished under this Agreement.

D. The rights and remedies of CITY under this Agreement are as provided by law.

**ARTICLE III**  
**PAYMENT**

A. CITY shall pay CONSULTANT on the basis herein described, subject to additions or deletions for changes or extras agreed upon in writing.

B. Payment will be as stipulated in Exhibit “B” attached hereto and incorporated herein.

C. Upon complete performance of this Agreement by CONSULTANT and final approval and acceptance of CONSULTANT’S Service by CITY, CITY will make final payment to CONSULTANT of the balance due under this Agreement within thirty (30) days of the following month after final payment for such Services has been billed by CONSULTANT.

D. CITY may deduct from any amounts due or to become due to CONSULTANT any sum or sums owing by CONSULTANT to CITY. In the event of any breach by CONSULTANT of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against CITY, or the CITY'S premises, arising out of CONSULTANT'S performance of this Agreement, CITY shall have the right to retain out of any payments due or to become due to CONSULTANT an amount sufficient to completely protect the CITY from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by the CONSULTANT.

#### **ARTICLE IV** **TIME FOR PERFORMANCE**

CONSULTANT shall perform all Services as provided for under this Agreement in a proper, efficient and professional manner in accordance with the CITY'S requirements. Both parties have agreed to the provisions of this Agreement in anticipation of the orderly and continuous progress of the project through completion of the Scope of Services specified in Exhibit "A", attached hereto.

#### **ARTICLE V** **DOCUMENTS**

A. All instruments of Service prepared under this Agreement shall be submitted for approval of the CITY.

B. Such documents of Service, together with necessary supporting documents, shall be delivered to CITY, and CITY shall have unlimited rights, for the benefit of CITY, in all instruments of Service, including the right to use same on any other work of CITY without additional cost to CITY. If, in the event CITY uses such instruments of Service on any work of CITY other than that specified in the Scope of Services, attached as Exhibit "A", provided

CONSULTANT completed this Agreement, under those circumstances CITY hereby agrees to protect, defend, indemnify and hold harmless the CONSULTANT, their officers, agents, servants and employees, from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any inaccuracy, such use of such instruments of Service with respect to such other work except where CONSULTANT participates in such other work.

C. CONSULTANT agrees to and does hereby grant to CITY a royalty-free license to all such instruments of Service which CONSULTANT may cover by copyright and to all designs as to which CONSULTANT may assert any rights or establish any claim under the design patent or copyright laws. CONSULTANT, after completion of the project, agrees to furnish the originals of all such instruments of Service to the CITY.

## **ARTICLE VI** **TERMINATION**

A. CITY or the CONSULTANT may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to the CONSULTANT or CITY, whichever applies. In the event suspension or termination is without cause, payment to the CONSULTANT, in accordance with the terms of this Agreement, will be made on the basis of Services reasonably determined by CITY to be satisfactorily performed to date of suspension or termination. Such payment will be due upon delivery of all instruments of service to CITY.

B. Should the CITY require a modification of its contract with CONSULTANT, and in the event CITY and CONSULTANT fail to agree upon a modification to this Agreement, CITY or the CONSULTANT shall have the option of terminating this Agreement. Payment to CONSULTANT shall be made by the CITY in accordance with the terms of this Agreement, for the Services mutually agreed upon by the CITY and the CONSULTANT to be properly performed by the CONSULTANT prior to such termination date.

## **ARTICLE VII** **INSURANCE**

A. CONSULTANT shall provide and maintain Workers Compensation with statutory limits.

B. CONSULTANT shall provide and maintain in full force and effect during the time of this Agreement, auto insurance (including, but not limited to, insurance covering the operation of owned and non-owned automobiles, trucks and other vehicles) protecting CONSULTANT and CITY as an additional Insured with limits not less than 250/500/100,000.

C. CONSULTANT shall provide general Liability Insurance. Such insurance covering personal and bodily injuries or death shall be in the sum of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per occurrence and Five Hundred Thousand Dollars (\$500,000.00) aggregate. Insurance covering damages to property shall be in the sum of not less than One Hundred Thousand Dollars (\$100,000.00). The general Liability Insurance must name the CITY as an additional insured.

D. CONSULTANT shall also provide and maintain Professional Liability Errors and Omissions Insurance coverage to protect CONSULTANT and CITY from liability arising out of the performance of professional Services, if any, under this Agreement. Such coverage shall be in the sum of not less than Three Hundred Thousand Dollars (\$300,000.00) per occurrence

and Five Hundred Thousand Dollars (\$500,000.00) aggregate. Such insurance shall be kept in effect for four years after the completion of the contract. If CONSULTANT fails to maintain the insurance covered during that time, CITY may pay the premiums to keep the insurance in effect and recover the cost from CONSULTANT.

E. A signed Certificate of Insurance, satisfactory to CITY, showing compliance with the requirements of this Article shall be furnished to CITY before any Services are performed. CONSULTANT shall provide thirty (30) days written notice to CITY prior to the cancellation or modification of any insurance referred to herein.

### **ARTICLE VIII**

### **INDEMNIFICATION FOR INJURY AND PERFORMANCE**

CONSULTANT further specifically obligates itself to CITY in the following respects, to-wit:

The CONSULTANT hereby agrees to protect, indemnify and hold harmless the CITY, their officers, agents, servants and employees (hereinafter individually and collectively referred to as "Indemnitees"), from and against suits, actions, claims, losses, liability or damage of any character, and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, or omission of the CONSULTANT, its officers, employees, servants, agents or subcontractors, or anyone else under the CONSULTANT'S direction and control, and arising out of, resulting from, or caused by the performance or failure of performance of any work or Services called for by this Agreement, or from conditions created by the performance or non-performance of said work or Services. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively

negligent or liable for such damage or injury, the CONSULTANT shall be obligated to indemnify Indemnatee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

The CONSULTANT is not responsible for the actions of the CITY'S contractor to perform the construction of the improvements covered under this Agreement.

Acceptance and approval of the final plans by the CITY shall not constitute nor be deemed a release of this responsibility and liability of CONSULTANT, its employees, associates, agents, and consultants for the accuracy or competency of their designs, working drawing and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by the CITY for any defect in the designs, working drawings and specifications, or other documents prepared by CONSULTANT, its employees, contractor, agents and consultants.

#### **ARTICLE IX** **ASSIGNMENT**

CONSULTANT shall not assign or sublet this Agreement or any part thereof, without the written consent of CITY. Sale of more than fifty percent (50%) ownership of CONSULTANT shall be construed as an assignment.

#### **ARTICLE X** **APPLICABLE LAWS**

CONSULTANT shall comply with all Federal, State, County and Municipal laws, ordinances, regulations, safety orders, resolutions and building codes, including the Americans with Disabilities Act, relating or applicable to Services to be performed under this Agreement.

This Agreement is performable in the State of Texas and shall be governed by the laws of the State of Texas. Venue on any suit hereunder shall be in Tarrant County, Texas.

**ARTICLE XI**  
**DEFAULT OF CONSULTANT**

In the event CONSULTANT fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by CITY to CONSULTANT, CITY may, at its sole discretion without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONSULTANT except for all work determined by CITY to be satisfactorily completed prior to termination. In the event of such termination, CITY may proceed to complete the Services in any manner deemed proper by CITY, either by the use of its own forces or by resubmitting to others. In either event, the CONSULTANT shall be liable for all costs in excess of the total contract price under this Agreement incurred to complete the Services herein provided for and the costs so incurred may be deducted and paid by the owner out of such monies as may be due or that may thereafter become due to CONSULTANT under and by virtue of this Agreement.

B. CITY may, without terminating this Agreement or taking over the Services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of the CONSULTANT.

**ARTICLE XII**  
**ADJUSTMENTS IN SERVICES**

No claims for extra Services, additional Services or changes in the Services will be made by CONSULTANT without a written agreement with CITY prior to the performance of such Services.

**ARTICLE XIII**  
**EXECUTION BECOMES EFFECTIVE**

This Agreement will be effective upon execution of the contract by and between CONSULTANT and CITY.

**ARTICLE XIV**  
**AGREEMENT AMENDMENTS**

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

**ARTICLE XV**  
**GENDER AND NUMBER**

The use of any gender in this Agreement shall be applicable to all genders, and the use of singular number shall include the plural and conversely.

**ARTICLE XVI**  
**NOTICES AND AUTHORITY**

A. The CONSULTANT agrees to send all notices required under this Agreement to City Manager, City of Benbrook, 911, Winscott Rd, Benbrook, Texas 76126. The CONSULTANT understands that only the City Manager or his designee has the authority to represent the CITY or bind the CITY under this Agreement.

B. The CITY agrees to send all notices required under this Agreement to the CONSULTANT at: 801 Cherry Street, Suite 2800, Fort Worth, Texas 76102.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY:

\_\_\_\_\_

CONSULTANT:

\_\_\_\_\_

By:\_\_\_\_\_

By:\_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Exhibit A**  
**Scope of Services**  
**Chapin Road and Dawn Drive Channel Improvements**

The scope set forth herein defines the work to be performed by the CONSULTANT in completing the project. Both the CITY and CONSULTANT have attempted to clearly define the work to be performed and address the needs of the Project. Under this scope, "CONSULTANT" is expanded to include any sub-consultant, including surveyor, employed or contracted by the CONSULTANT.

**PROJECT UNDERSTANDING**

The project includes the conceptual, preliminary, and final design of drainage channel and culvert improvements for two channel segments which will be designed, bid, and constructed as a single contract. The project locations are generally shown on Figure 1 and Figure 2. The improvements are described as follows:

**1. CHAPIN ROAD IMPROVEMENTS.** Design approximately 800 linear feet of drainage channel improvements downstream of Chapin Road adjacent to the intersection of Chapin Road and Cork Place near Western Hills High School. The design will be based on recommendations provided by Freese and Nichols, Inc. (FNI) in the 2015 *Chapin and Van Deman Drainage Improvement Recommendations* study report. The existing channel has downcut and eroded, causing a nuisance and some loss of private property. The channel will be improved with turf reinforcing mat and gabion mattresses so as not to be susceptible to erosion at design flow rates. In addition, a gabion drop transition will be designed at the downstream limit of the project as needed to transition to the downstream channel section..

**2. DAWN DRIVE IMPROVEMENTS.** Design culvert improvements and approximately 150 linear feet of drainage channel improvements downstream of Dawn Drive adjacent to Mary's Creek Drive. The design will be based on recommendations provided by Pacheco Koch in the 2015 *Plantation West Creek Repairs* study report. The existing culvert at Dawn Drive experiences sediment accumulation and restricted outflow capacity due to the alignment of the downstream wingwalls. The constricted wingwalls are proposed to be removed, and modular block walls are proposed to be constructed for bank stabilization and channel transitioning downstream of the culvert.

**WORK TO BE PERFORMED**

**BASIC SERVICES**

- Task 1. Design Management
- Task 2. Conceptual Design (50%)
- Task 3. Preliminary Design (90%)
- Task 4. Final Design (100%)
- Task 5. Bid Phase Services
- Task 6. Construction Phase Services

**SPECIAL SERVICES**

- Task 7. Topographic Survey
- Task 8. Geotechnical Engineering

Task 9. Permitting

Task 10. Easement Documents

Task 11. Contingency

## **BASIC SCOPE OF SERVICES**

The basic scope of services proposed for this project includes the following:

### **TASK 1. DESIGN MANAGEMENT.**

CONSULTANT will manage the work outlined in this scope to ensure efficient and effective use of CONSULTANT's and CITY's time and resources. CONSULTANT will manage change, communicate effectively, coordinate internally and externally as needed, and proactively address issues with the CITY's Project Manager and others as necessary to make progress on the work.

#### **1.1. Managing the Team**

- Lead, manage and direct design team activities
- Ensure quality control is practiced in performance of the work
- Communicate internally among team members
- Task and allocate team resources

#### **1.2. Communications and Reporting**

- Conduct and document internal design team meetings.
- Prepare and submit monthly progress reports.
- Prepare and submit baseline Project Schedule initially, and Project Schedule updates as necessary.

### **ASSUMPTIONS**

- Assumes up to two (2) design review meetings with CITY's Project Manager and CONSULTANT in attendance.

### **DELIVERABLES**

- A. Meeting summaries with action items
- B. Monthly progress reports
- C. Baseline design schedule

### **TASK 2. CONCEPTUAL DESIGN (50%)**

The channel improvement design will be based on the designs prepared by FNI and Pacheco Koch during the study phase and as described in the PROJECT UNDERSTANDING above. CONSULTANT will develop the preliminary design of the infrastructure as follows.

#### **2.1. Data Collection**

- In addition to data obtained from the CITY, CONSULTANT will research and make efforts to obtain pertinent information to aid in coordination of the proposed improvements with any planned future improvements that may influence the project.

CONSULTANT will also identify and seek to obtain data for existing conditions that may impact the project including; utilities, agencies (such as TxDOT and railroads), CITY Master Plans, CITY drainage complaint files, existing applicable drainage studies, FEMA floodplain and floodway maps, existing models of project area, and property ownership as available from the Tax Assessor's office.

- CONSULTANT will make up to one (1) visit to the site to observe and document existing conditions and aid in the design of the drainage improvements.

## 2.2 Conceptual Design Drawings

- Sheet List for Conceptual Drawings to include the following:
  - Cover
  - Sheet Index, Legend, and General Notes
  - Horizontal Control and Project Layout
  - Drainage Area Map and Drainage Calculations
  - Channel Improvements Typical Section
  - Channel Improvements Plan and Profile
  - Dawn Drive Plan and Profile
  - Demolition Plan
  - Erosion Control Plan
  - Gabion Transition Structure Plan

### **ASSUMPTIONS**

- Two (2) 11x17 Half Size Sets and One (1) PDF set of design drawings will be provided for City review
- CONSULTANT shall not proceed with Preliminary Design activities without written approval by the CITY of the Conceptual Design plans.
- CONSULTANT shall utilize topographic survey performed by Pacheco Koch for the Dawn Drive Improvements area. CONSULTANT is not responsible for the accuracy of this data.

### **DELIVERABLES**

- A. 50% Preliminary Design Drawings
- B. 50% Estimate of Probable Construction Cost

### **TASK 3. PRELIMINARY DESIGN (90 PERCENT).**

Upon approval of the Conceptual Design plans, CONSULTANT will incorporate CITY comments on conceptual design plans and prepare preliminary design plans as follows:

#### **3.1 Preliminary Design Drawings**

- Sheet List for Preliminary Drawings to include the following:
  - Cover
  - Sheet Index, Legend, and General Notes
  - Horizontal Control and Project Layout
  - Drainage Area Map and Drainage Calculations
  - Channel Improvements Typical Sections
  - Channel Improvements Plan and Profile
  - Grading Plan
  - Demolition Plan
  - Erosion Control Plan
  - Gabion Transition Structure Plan
  - Gabion Details
  - TRM Details
  - Modular Block Wall Details
  - Standard Details

#### **3.2 Preliminary Specifications**

- Prepare project specifications utilizing the CITY's standard documents.

### **ASSUMPTIONS**

- Two (2) 11x17 Half Size Sets and One (1) PDF set of design drawings will be provided for City review
- CONSULTANT shall not proceed with Final Design activities without written approval by the CITY of the Preliminary Design plans.

### **DELIVERABLES**

- A. 90% Preliminary Design Drawings and Specifications
- B. 90% Estimate of Probable Construction Cost

#### **TASK 4. FINAL DESIGN (100%).**

Upon approval of the Preliminary plans, CONSULTANT will incorporate CITY comments on preliminary construction plans and prepare final design plans as follows.

##### **4.1 Final Construction Documents**

- Final draft construction plans and specifications shall be submitted to CITY per the approved Project Schedule.
- The CONSULTANT shall submit a final design estimate of probable construction cost with the final design plans submitted.
- After receiving City comments on the 90% construction plans, the CONSULTANT shall submit Final Plans and Specifications (100%) to the CITY per the approved Project Schedule. Each plan sheet shall be stamped, dated, and signed by the CONSULTANT registered in State of Texas.
- The CONSULTANT will coordinate with up to two utilities to coordinate relocations necessary to construct the project.

#### **ASSUMPTIONS**

- Two (2) 11x17 Half Size Sets and One (1) copy of the project specifications will be delivered for the 100% design. One (1) PDF copy of the drawings and specifications will be provided.
- Coordination with franchise utilities for relocations will be considered an additional service.

#### **DELIVERABLES**

- A. 100% Construction Plans and Specifications.
- B. Detailed estimate of probable construction cost for the authorized construction project, including summaries of bid items and quantities.
- C. Technical Memoranda for Floodplain Development and USACE Permitting

#### **TASK 5. BID PHASE SERVICES.**

CONSULTANT will support the bid phase of the project as follows.

##### **5.1. Bid Support**

- Provide notice to bidders. CITY will be responsible for posting advertisement in newspaper.
- Post plans on online bidding website (CivCast) that is monitored by local plan rooms.
- Answer questions from potential bidders and prepare addenda if necessary.

- Attend bid opening, prepare bid tabulation and make recommendation of award to the CITY. Reference checks will be performed as necessary, but in-depth review of bidders qualifications is an additional service.
- Incorporate all addenda into the contract documents and issue conformed set of documents for construction.

## **ASSUMPTIONS**

- The project will be bid only once and awarded to one contractor.
- Two (2) sets of conformed plans and specifications will be delivered to the CITY and made available by PDF. The conformed plans shall consist of half size 11x17 drawings.

## **DELIVERABLES**

- A. Addenda
- B. Bid Tabulation
- C. Recommendation of Award
- D. Conformed construction documents

## **TASK 6. CONSTRUCTION PHASE SERVICES.**

### **6.1 Construction Support**

CONSULTANT shall provide the following construction phase services in support of CITY:

- As requested by the CITY, provide necessary interpretations and clarifications of contract documents, change orders, review of shop drawings, and plan revisions.
- Make one (1) visit to the site (as distinguished from the continuous services of a Resident Project Representative) to observe the progress and the quality of the work associated with construction and to attempt to determine if the work is proceeding in accordance with the Construction Contract Documents. In this effort, CONSULTANT will endeavor to protect the CITY against defects and deficiencies in the work of the Contractor and will report any observed deficiencies to CITY. It is understood that CONSULTANT does not guarantee the Contractor's performance, nor is CONSULTANT responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor. CONSULTANT shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any work of the Project.
- Conduct, in company with CITY's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the

Construction Contract Documents. Prepare a list of deficiencies to be corrected by the contractor before recommendation of final payment. Assist CITY in obtaining legal releases, permits, warranties, spare parts, and keys from the contractor. Review and comment on the certificate of completion and the recommendation for final payment to the Contractor(s). Site visits to review completed work in excess of two trips are an additional service and shall not be performed unless authorized in advance by CITY.

- Revise the construction drawings in accordance with the information furnished by construction Contractor(s) reflecting changes in the Project made during construction. These "Record Drawings" shall be provided by CONSULTANT to CITY in a PDF format.

### **ASSUMPTIONS**

- Assumes one (1) Request for Information (RFI) review and five (5) submittals
- CITY shall be responsible to conform and coordinate contract execution.

### **DELIVERABLES**

- A. Response to Contractor's Request for Information
- B. Record Drawings

## **TASK 7. TOPOGRAPHIC SURVEY (SPECIAL SERVICE)**

### **7.1 Field Survey**

- Provide design survey for Chapin Road Improvements channel to include topographic data, utilities, existing structures, trees, property lines, and other relevant site features. The limits of this survey begin approximately 100 feet north of Chapin Road and extend approximately 1150 feet south along the existing channel.
- Design for Dawn Drive Improvements will be based on the survey performed by Pacheco Koch provided to FNI.

## **TASK 8. GEOTECHNICAL ENGINEERING (SPECIAL SERVICE)**

CONSULTANT will provide the following geotechnical engineering services as part of the design of the channel improvements.

### **8.1 Data Collection**

- CONSULTANT will review pertinent information from geotechnical reports provided by CITY to aid in geotechnical evaluation and design of channel improvements. CONSULTANT is not responsible for the accuracy of these reports.

- CONSULTANT will make up to one (1) visit to the site to observe and document existing conditions and aid in the design of the drainage improvements.

## 8.2 Engineering Analysis

- CONSULTANT will perform necessary slope and wall stability calculations to assist in design.
- The geotechnical engineer will collaborate with the design team on the implementation of recommendations and will review design submittals to assist with geotechnical related items.

### **ASSUMPTIONS**

- Geotechnical Engineering Report prepared by Rone Engineering for Pacheco Koch (2018) is sufficient for review and for use in providing geotechnical recommendations for the Dawn Drive Improvements.
- Modular walls will be designed by the manufacturer or their engineer. FNI will provide performance specifications for the requirements to be met by the wall designer.

## **TASK 9. PERMITTING (SPECIAL SERVICE)**

CONSULTANT will provide the following environmental permitting services as part of the design of the channel improvements.

### **9.1 Floodplain Services**

- CONSULTANT will prepare a technical memorandum documenting compliance with CITY floodplain management criteria. No hydraulic modeling will be performed.

### **9.2. Environmental Services**

- CONSULTANT will assemble and review data such as aerial photographs, USGS topographic maps, National Wetlands Inventory (NWI) maps, the USGS National Hydrography Dataset (NHD), and soils data within the proposed project area.
- CONSULTANT will conduct one (1) site visit to make observations within the proposed project area to document existing environmental conditions and assess potential project impacts. The presence and locations of waters of the U.S., including wetlands, potential threatened/endangered species habitat, and vegetation cover types will be identified within the area of the proposed project areas.
- CONSULTANT will evaluate the potential to impact historic properties by reviewing the Texas Archeological Sites Atlas (TASA). Any coordination with the THC is not included in this scope of services but can be provided upon written authorization by the CITY as an additional service.
- CONSULTANT will coordinate with the project engineers to discuss if the proposed project improvements have been designed to meet the terms and conditions of an NWP without requiring notification to the USACE.
- CONSULTANT will prepare one (1) technical memorandum using information gathered during the site visit, review of TASA, and coordination with the design engineers. The memorandum will include discussions of methodologies used, the hydrologic characterization of potential waters of the U.S., and an opinion on their jurisdictional status. This memorandum will also include a discussion of how the proposed project could potentially meet the terms and conditions of an NWP and if pre-construction notification (PCN) is required by the USACE.
- If additional coordination with USACE or other regulatory environmental agencies is required, ENGINEER can provide these services as additional services upon written request from the CITY.

## **ASSUMPTIONS**

- Chapin Road Improvements occur in non-jurisdictional waters and will therefore not require USACE permitting for construction.
- Dawn Drive Improvements can likely be authorized under NWP 14 for Linear Transportation Projects without pre-construction notification (PCN).

## **DELIVERABLES**

- A. Technical memoranda delivered with 100% design package

## **TASK 9. EASEMENT DOCUMENTS (SPECIAL SERVICE)**

### **9.1 Permanent Easements**

- Provide up to two (2) easement documents including metes and bounds descriptions and accompanying exhibit signed and sealed by a registered professional land surveyor.
- Copy of existing appraisal district tax card, parent deed or plat, and all other supporting documents will be provided.
- Rework of easement documents due to design revisions is an additional service not included in this scope.

## **TASK 10. CONTINGENCY (SPECIAL SERVICE)**

### **10.1 Miscellaneous Engineering**

- This task serves as a contingency for additional miscellaneous engineering efforts that may be identified during the course of the project. These services may be authorized in writing by City staff.

## **ADDITIONAL SERVICES**

**Additional Services not included in the existing Scope of Services** – CITY and CONSULTANT agree that the following services are beyond the Scope of Services described in the tasks above. However, CONSULTANT can provide these services, if needed, upon the CITY's written request. Any additional amounts paid to the CONSULTANT as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include the following:

1. Negotiation of easements or property acquisition.
2. Surveying or SUE services other than those stated above.

3. Preparation of USACE Nationwide Permits, USACE 404 Permits, CITY Floodplain Development Permits, FEMA (CLOMR or LOMR) submittals. Preparation of a Pre-Construction Notification for submittal to the USACE.
4. Preparation of a Preliminary Jurisdictional Determination (PJD) Report.
5. Conducting a conditional assessment (i.e., TXRAM) on waters of the U.S. potentially impacted by the proposed project.
6. Presence/absence surveys for federally listed threatened/endangered species.
7. Application for Texas Parks & Wildlife Department Sand and Gravel Permit.
8. Application for General Land Office Easement.
9. Consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act.
10. Coordination with the Texas Historical Commission or conducting cultural resources studies or surveys.
11. Monitoring for compliance with permit conditions.
12. Identification of tree species and/or preparation of a tree mitigation plan required due to tree ordinance compliance.
13. Other environmental services not specifically defined in this scope of services.
14. Services related to development of the CITY's project financing and/or budget.
15. Services related to disputes over pre-qualification, bid protests, bid rejection and re-bidding of the contract for construction.
16. Construction management and inspection services.
17. Performance of materials testing or specialty testing services.
18. Services necessary due to the default of the Contractor.
19. Services related to damages caused by fire, flood, earthquake or other acts of God.
20. Services related to warranty claims, enforcement and inspection after final completion.
21. Services to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY.
22. Additional bid or construction phase services necessary to bid the project areas separately or to re-bid the project.

**City of Benbrook**  
**General Engineering Consulting Services**

**Exhibit B**

**Fees**

CONSULTANT shall be compensated for basic services on a lump sum basis. Special services shall be compensated on an hourly basis in accordance with the attached schedule. The total compensation is summarized as follows:

| <u>BASIC SERVICES</u>               | <u>Chapin Road</u> | <u>Dawn Drive</u> |
|-------------------------------------|--------------------|-------------------|
| Task 1. Design Management           | \$ 2,660.00        | \$ 3,990.00       |
| Task 2. Conceptual Design (50%)     | \$ 9,496.00        | \$ 14,244.00      |
| Task 3. Preliminary Design (90%)    | \$ 9,336.00        | \$ 14,004.00      |
| Task 4. Final Design (100%)         | \$ 2,848.00        | \$ 4,272.00       |
| Task 5. Bid Phase Services          | \$ 2,155.00        | \$ 2,155.00       |
| Task 6. Construction Phase Services | \$ 4,200.00        | \$ 4,200.00       |
| Basic Services Total:               | \$ 30,695.00       | \$ 42,865.00      |
| <u>SPECIAL SERVICES</u>             |                    |                   |
| Task 7. Topographic Survey          | \$ 7,150.00        | \$ 0.00           |
| Task 8. Geotechnical Engineering    | \$ 0.00            | \$ 4,390.00       |
| Task 9. Permitting                  | \$ 2,376.00        | \$ 3,564.00       |
| Task 10.Easement Documents          | \$ 0.00            | \$ 2,860.00       |
| Task 11.Contingency                 | \$ 5,000.00        | \$ 5,000.00       |
| Special Services Total:             | \$ 14,526.00       | \$ 15,814.00      |
| Project Total:                      | \$ 45,221.00       | \$ 58,679.00      |

Contract Total: \$ 103,900.00

**Invoicing**

CONSULTANT may submit invoices for Services rendered no more frequently than monthly, accompanied by an explanation of the Services provided and any necessary supporting documentation.

**Hourly Rate**

ATTACHMENT CO

| <b>Position</b>             | <b>Min</b> | <b>Max</b> |
|-----------------------------|------------|------------|
| Professional 1              | 80         | 148        |
| Professional 2              | 100        | 157        |
| Professional 3              | 122        | 228        |
| Professional 4              | 152        | 244        |
| Professional 5              | 185        | 350        |
| Professional 6              | 197        | 398        |
| Construction Manager 1      | 89         | 176        |
| Construction Manager 2      | 109        | 190        |
| Construction Manager 3      | 167        | 224        |
| Construction Manager 4      | 205        | 289        |
| CAD Technician/Designer 1   | 71         | 147        |
| CAD Technician/Designer 2   | 104        | 158        |
| CAD Technician/Designer 3   | 133        | 208        |
| Corporate Project Support 1 | 52         | 126        |
| Corporate Project Support 2 | 73         | 175        |
| Corporate Project Support 3 | 105        | 266        |
| Intern / Coop               | 42         | 107        |

**Rates for In-House Services and Equipment**

| <b><u>Mileage</u></b>           | <b><u>Bulk Printing and Reproduction</u></b> |                       | <b><u>Equipment</u></b> |   |
|---------------------------------|--|-----------------------|-------------------------|---|
| Standard IRS Rates              |  | <b><u>B&amp;W</u></b> | <b><u>Color</u></b>     |   |
|                                 | Small Format (per copy)                      | \$0.10                | \$0.25                  | Valve Crew Vehicle (hour) \$75                    |
|                                 | Large Format (per sq. ft.)                   |                       |                         | Pressure Data Logger (each) \$200                 |
| <b><u>Technology Charge</u></b> | Bond   | \$0.25                | \$0.75                  | Water Quality Meter (per day) \$100               |
| \$8.50 per hour                 | Glossy / Mylar                               | \$0.75                | \$1.25                  | Microscope (each) \$150                           |
|                                 | Vinyl / Adhesive                             | \$1.50                | \$2.00                  | Pressure Recorder (per day) \$100                 |
|                                 |  |                       |                         | Ultrasonic Thickness Gauge (per day) \$275        |
|                                 |  |                       |                         | Coating Inspection Kit (per day) \$275            |
|                                 | Mounting (per sq. ft.)                       | \$2.00                |                         | Flushing / Cfactor (each) \$500                   |
|                                 | Binding (per binding)                        | \$0.25                |                         | Backpack Electrofisher (each) \$1,000             |
|                                 |  |                       |                         | <b><u>Survey Grade</u></b> <b><u>Standard</u></b> |
|                                 |  |                       |                         | Drone (per day) \$200 \$100                       |
|                                 |  |                       |                         | GPS (per day) \$150 \$50                          |

**OTHER DIRECT EXPENSES:**

Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.10. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

**These ranges and/or rates will be adjusted annually in February. Last updated 2021.**

350022021



Chapin Road Improvements  
Project Limits

**FN FREESE & NICHOLS**  
801 Cherry Street, Suite 2800  
Fort Worth, TX 76102  
817-735-7300 | www.freese.com



# Chapin Road Improvements

## Chapin Road and Dawn Drive Channel Improvements

|           |                   |
|-----------|-------------------|
| FN JOB NO |                   |
| FILE      | ChapinLocationMap |
| DATE      | 11/29/2021        |
| SCALE     | 1:3,600           |
| DRAFTED   | 02483             |

**FIGURE**  
**1**



## Dawn Drive Improvements

Chapin Road and Dawn Drive Channel Improvements

|           |                 |
|-----------|-----------------|
| FN JOB NO |                 |
| FILE      | DawnLocationMap |
| DATE      | 11/29/2021      |
| SCALE     | 1:1,800         |
| DRAFTED   | 02483           |

FIGURE

2